

SECTION 8. HUMAN RESOURCE MANAGEMENT

Part 8.20 ON-CALL POLICY

A. PURPOSE

To establish consistent Department policy and procedures on reporting and compensating employees that are required by management to be placed on "On-Call" status outside of their scheduled work hours. This policy will ensure compliance with the Fair Labor Standards Act and Utah Department of Human Resource Management Rules R477-8-6(8)(c) for employees reporting on-call time.

B. DEFINITION

1. Pursuant to Department of Human Resource Rules R477-8-6(8)(c), employee time is considered "on-call" time only when an employee is required by management to be available for a call to duty. Being available means an employee is required by management to be reachable to work during a specific time frame of coverage for work beyond an employee's regular work schedule.
2. The employee must be significantly restricted from conducting personal business or from traveling outside the area of work. The extent of restriction keeping employees from conducting personal or home activities shall be closely evaluated. Restrictive factors to be considered are:
 - a. on-premises living requirement
 - b. geographic restrictions on the employee's movements
 - c. frequency of calls
 - d. response time requirements
 - e. difficulty for an employee to switch on-call responsibilities with a co-worker
 - f. use of technological devices such as a cellular phone or a pager to ease some of the restrictions
 - g. responding to calls interferes with sleeping, eating, and other home or close-to-home activities
 - h. actual participation in personal activities while on call
3. This policy authorizes on-call compensation consistently to both FLSA exempt and non-exempt employees even though DOH is not required by the FLSA to compensate FLSA exempt employees.

C. INTRODUCTION

Under the FLSA, on-call time is not specified as compensable working time. The Supreme Court, however, in two rulings has indicated that "Under certain circumstances, on-call or waiting time is compensable." Managers should use this policy to determine whether or not employees are to be paid one hour for every 12 hours they are placed in restrictive time conditions. Managers are responsible to assure on-call is designated consistently in accordance with the above definition.

D. POLICY

The term on-call or "waiting time" is used to define any hours that are restricted to the extent that the employee is not able to effectively use those hours for his/her own personal use after normal working hours. If the business can be conducted from a cellular phone from any location, employees are not restricted enough to meet the on-call definition.

E. GUIDELINE

A division director (or designee) is the only individual who may designate, in writing, someone to be on-call. The assigned payroll technician must be notified so that he/she may document any authorized on-call on the time and attendance system. A copy of the agreement shall be included with time sheets reporting on-call hours.

F. PROCEDURE

1. Complete a signed up-front agreement between the employer and employee, stating that the employee is "on-call" based upon management's determination that there are legitimate agency operational requirements. The "on-call" designation is not an employee right or employee job entitlement. **Management should consider other viable options to assure the most effective and efficient method to conduct operations. On-call must be utilized to best meet business needs and used not solely as a mechanism to provide employees with added compensation.**
2. When designating who is to be on-call, the division director (or designee) must include the days in which the employee is to be on-call, the schedule of hours the employee is to be on-call, justification for the need for on-call, and employee agreement to be on-call.
3. Ensure employee is aware of the terms of compensation for his/her time while placed on "on-call" status. Hours actually worked while on-call will be compensated in accordance with the employee's Overtime Election Agreement form.

4. Determine reasonable time periods for "on-call" employees to respond to calls. The amount of time required by employer for the employee to respond should take into account commute distance based upon geographic constraints
5. Ensure that the employee is notified that they may be subject to disciplinary action for a breach of the Utah Department of Health on-call policy or agreement.

G. CONDITIONS/RESTRICTIONS

1. At least annually, all up-front agreements for employees who are placed on "on-call" status must be reviewed for authorization and applicability. When the terms and conditions in "on-call" agreement warrant changes, a modification of agreement will be required.
2. Employees, who are simply required to leave a number as to where they can be reached or are required to have a pager, are not considered to be on-call.
3. Any employee who is required to remain at a certain place is considered to be in a "waiting to be engaged" situation. In these situations, the employee is automatically placed in an on-call status because his/her use of personal time is limited or restricted. This does not require written authorization.
4. Pursuant to Department of Human Resource Management Rule R477-8-6(8)(c)(ii), any time an employee actually works during the "on-call" period shall be recorded in increments of 15 minutes as "hours worked" in addition to "on-call" time. Compliance with established agency procedures on documentation (such as telephone logs, travel reports and case logs) of actual time worked must be completed by the employee prior to reimbursement for hours worked during the "on-call" period.
5. In determining whether or not an employee is in an on-call status depends upon whether the on-call time is spent predominantly for the employer's benefit or for the employee's. If the employee can use his/her time freely, effectively, and unrestricted for his/her own purpose, then the time is not compensable.
6. If the employee is required to wear a pager and faces disciplinary action or harm could occur to property or individuals for failure to respond to calls, the employee must be given on-call compensation.
7. Any time an employee actually works during their authorized "on-call" period shall be totaled at the end of a twelve (12) hour "on-call" period and rounded to the nearest fifteen (15) minute increment. Compensation for FLSA exempt employees will be at straight time only.

8. Regular commute time to the job and back home is not considered time worked. However, travel to the job and back home by an employee who receives an emergency call outside of regular hours or during an "on-call" period to report to work is considered compensable working time. Mileage would also be reimbursed in those cases.

PROCESS

1. Department of Health (DOH), Human Resource Management, will consistently calculate and post on-call time using designated payroll documentation and payroll codes.
2. Compliance to this policy is subject to audit by DOH Human Resource Management, DOH Finance, State Finance, or the Department of Human Resource Management.
3. On-call requests will be reviewed and considered on a case by case basis. On-call agreements will be reviewed by supervisors annually or as needed. Supervisors and employees shall communicate significant changes as they occur.

**State of Utah
Department of Health**

On-Call Justification

Employee Name: _____

Division/Office: _____

Supervisor Name: _____

Justification - Describe on-call parameters and reasons (attach additional sheet if necessary): _____

Estimated annual costs involved: _____

Frequency of calls and responses: _____

Consideration to determine level of restriction of employee:

- ☐ On-premises living requirement
- ☐ Geographic restrictions on employee's movement
- ☐ Frequent number of calls
- ☐ Minimal response time
- ☐ Difficulty switching on-call responsibilities with a co-worker
- ☐ Does use of technological devices, such as a pager or cellular phone, ease some of the restrictions
- ☐ Employee's actual participation in personal activities during the on-call time
- ☐ Calls and responses effectively interfere with eating, sleeping, or other home activities
- ☐ Other (Describe in detail below or on back)

Other options explored: _____

Why "on-call" is determined to be best method: _____

**State of Utah
Department of Health**

On-Call Agreement

Employee Name: _____

Division/Office: _____

Supervisor Name: _____

AGREEMENT TERMS & CONDITIONS:

I hereby agree to be placed on "on-call" status with the Utah Department of Health and understand that management has required that I make myself available to report to work during management-specified dates and timeframes.

My signature also denotes:

1. I acknowledge that I will respond to a call or page within _____ minutes.
2. I will be compensated at my regular hourly rate for "on-call" time at a rate of 1 hour for every 12 hours that I am on "on-call" status.
3. All "on-call" time accrued is to be reported on the State time sheet for that pay period worked.
4. Any time actually worked during the "on-call" period is recorded in 15 minute increments as "hours worked" in addition to "on-call" time. Any time actually worked is to be reported on the State time sheet for that pay period worked. I will be compensated for time actually worked in accordance with my FLSA designation.
5. Any breach of this agreement may result in disciplinary action.
6. I agree to the following schedule for on-call duty:
Days of the week: _____
Schedule of hours for on-call duty: _____

Employee's Signature/Date

Division/Office Director's Signature/Date

Supervisor's Signature/Date

Executive Director's Office Signature/Date

cc: Personnel File

04/16/2001